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| APPLICATION NO.                         | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.  | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------|------------------|
| 10/590,361                              | 05/16/2007  | Nathalie Dassaud     | 15518NP              | 6729             |
| 293                                     | 7590        | 05/05/2008           | EXAMINER             |                  |
| Ralph A. Dowell of DOWELL & DOWELL P.C. |             |                      | PAYER, HWEI SIU CHOU |                  |
| 2111 Eisenhower Ave                     |             |                      | ART UNIT             | PAPER NUMBER     |
| Suite 406                               |             |                      |                      | 3724             |
| Alexandria, VA 22314                    |             |                      |                      |                  |
|   |             |                      | MAIL DATE            | DELIVERY MODE    |
|   |             |                      | 05/05/2008           | PAPER            |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 10/590,361             | DASSAUD ET AL.      |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Hwei-Siu C. Payer      | 3724                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 August 2006 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____ .                                     |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/23/06</u> .   | 6) <input type="checkbox"/> Other: ____ .                         |

## **Detailed Action**

### **Objection to the Specification**

The disclosure is objected to because of the following informalities:

- (1) On page 8, lines 23-24, “at one side and the other of the cut-out” does not make sense. Further, it appears “The levers” should be specified as the two levers (not including the third lever) that are at the same side of the cut-out.
- (2) On page 11, lines 17 and 19, the use of the term “permanently” is not correct. The blade 18 is not “permanently” held and the cutting edge of the blade is not “permanently” in abutment against three contact points.

Appropriate correction is required.

### **Claims Objection**

Claims 1-11 are objected to because of the following informalities:

- (1) In claims 1-11, line 1, “Device” should read --A device--.
- (2) In claim 1, line 15, “a means” should read --the means--. Note “means for returning” at lines 5-6 of the claim.
- (3) In claim 9, line 2, “a return means” should read --the returning means--.
- (4) In claim 11, “20” and “21” should read --32-- and --33--, respectively.

Appropriate correction is required.

### **Claims Rejection - 35 U.S.C. 112, second paragraph**

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  - (1) In claims 1, 7 and 9, "in particular" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention.
  - (2) The scope of claim 2 is vague. Is "an arm" additional to one arm or the other arm of claim 1?

### **Claims Rejection - 35 U.S.C. 103(a)**

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 2, 4-8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cozzini et al. (U.S. Patent No. 5,478,272) in view of Frost (U.S. Patent No. 5,505,107).

Cozzini et al. discloses a sharpening device comprising a support (12); a cut-out (18); shafts (44,46); sharpening element having three pivotal levers (28,30,32) and

returning means (24); two plastic stops (34,38); a third stop (36); and fastening means (64) substantially as claimed except the pivotal levers (28,30,32) are returned into position by means of the biasing force rather than by gravity from the returning means (24).

Frost teaches the use of returning means (30/31) in the form of a counterweight for returning pivotal sharpening levers (22/24) into position by gravity.

Thus, it would have been obvious to one skilled in the art to modify Cozzini et al. by having the fastening means formed as counterweights for returning the pivotal levers (28,30,32) into position by gravity rather than by biasing force, since a person of ordinary skill has good reason to pursue the known options within his or her technical grasp.

Regarding claim 7, official notice is taken the fact that it is notoriously old and well known in the art to provide a stop with a sleeve of flexible material to reduce impacts. One example is a door stop that has one end threadedly attached to the trim of a wall and the other end (i.e. the free end) of the door stop covered with a flexible sleeve to reduce the noise and impact when a door is swung open against the door stop. Thus, one skilled in the art who wishes to reduce the impact of the sharpening levers (28,30,32) of Cozzini et al. against the stops (36) would have known to provide the stop (36) with a sleeve of flexible material for reducing the impact and therefore the noise as desired.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cozzini et al. (U.S. Patent No. 5,478,272) in view of Frost (U.S. Patent No. 5,505,107) as applied

to claim 2 above, and further in view of Carter (U.S. Patent No. 4,494,340) and Jenne (U.S. Patent No. 4,751,795).

The sharpening device of Cozzini et al. as modified shows all the claimed limitations except it does not explicitly mention the sharpening levers having different abrasiveness.

Carter teaches it is desirable to provide a sharpening device with sharpening rods of differing abrasiveness (coarse and fine). Jenne shows a ribbed sharpening rod (12/13).

Thus, it would have been obvious to one skilled in the art to further modify Cozzini et al. by having a part of the sharpening surface on the sharpening lever (28,30,32) having a different abrasiveness than the rest of the sharpening surface so that the sharpening lever can be used for both coarse sharpening and fine sharpening as taught by Carter. Further, to provide Cozzini et al. with a sharpening surface in the form of well known ribs such as that of Jenne's would have been obvious to one skilled in the art. Moreover, the location of the ribbed or polished sharpening surfaces on the sharpening levers appears to be an obvious matter of personal preference as evidenced by the applicants (note pages 14 and 15 of the specification).

### **Indication of Allowable Subject Matter**

Claims 9 and 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### **Point of Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for official communications and 571-273-4511 for proposed amendments.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit: 3724

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H Payer  
May 5, 2008

/Hwei-Siu C. Payer/  
Primary Examiner, Art Unit 3724